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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/991,836	11/23/2001	Jack E. Caveney	LCB358C	6016

7590

09/08/2004

Jay A. Saltzman  
Panduit Corp.  
Legal Department -- TP12  
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Tinley Park, IL 60477

EXAMINER
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WILSON, YOLANDA L

ART UNIT	PAPER NUMBER
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2113

DATE MAILED: 09/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	Application No. 09/991,836	Applicant(s) CAVENEY, JACK E.	
	Examiner Yolanda Wilson	Art Unit 2113	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 23 November 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2 and 4-13 is/are rejected.
- 7) ☒ Claim(s) 3 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>2/7/02; 3/22/02</u> | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION*****Double Patenting***

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

2. Claims 1 and 13 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 5,24,25 of copending Application No. 09992034. Although the conflicting claims are not identical, they are not patentably distinct from each other because as per claim 1 of the presented application, 09991836, claim 5 of the copending application discloses a computer processor; a plurality of local system ports disposed at distinct physical locations within said system, said local system ports in communication with said computer processor. Although claim 5 of the copending application does not explicitly state a probe for connecting to said plurality of local system ports, it would have been obvious to one of ordinary skill in the art to have a probe for connecting to said plurality of local system ports

because the disclosure of the copending application discloses on page 5, paragraph 0037, "The probe is preferably easy for the revisor to carry around with him, and each rack in the network preferably has a system outlet for plugging in the probe. Thus, the probe may have similar function for the information module except that, rather than receiving a patch cord already connected to a date [data] port, the probe may be inserted into the data port..." Since the probe can be used as the information module in the revision system and the probe has the same functionality of the information module, it would be obvious to have a probe for the portable information module.

Although claim 5 of the copending application does not explicitly state a plurality of port plates corresponding to and disposed proximately to at least a plurality of said data ports and having a scanner capable of polling at least some of said port plates for determining information therefrom, it would have been obvious to one of ordinary skill in the art to have these limitations because the disclosure of the copending application discloses on pages 5-6, paragraph 0038, "Use of the probe in the present invention is contemplated to be associated with conductive contact elements, such as port plates associated with and adjacent to each of the data ports in the LAN. Each such port plate is independently connected to the system... Unlike most other cords, however, the specialized cords contemplated to be in accordance with the invention include plug extensions extending transversely from the plugs and configured to cooperatingly mechanically and electrically engage the port plates associated with and adjacent to the respective ports into which the plug is inserted." The port plates

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are the connection through which the information is gathered for the port;  
therefore, it would be obvious to have port plates.

3. As per claim 1 of the presented application, 09991836, claim 24 of the copending application discloses a computer processor; a plurality of port plates corresponding to and disposed proximately to at least a plurality of said data ports; a scanner in communication with said computer processor, said scanner capable of polling at least some of said port plates for determining information therefrom; a plurality of local system ports disposed at distinct physical locations within said system, said local system ports in communication with said computer processor.

Although claim 24 of the copending application does not explicitly state a probe for connecting to said plurality of local system ports, it would have been obvious to one of ordinary skill in the art to have a probe for connecting to said plurality of local system ports because the disclosure of the copending application discloses on page 5, paragraph 0037, "The probe is preferably easy for the revisor to carry around with him, and each rack in the network preferably has a system outlet for plugging in the probe. Thus, the probe may have similar function for the information module except that, rather than receiving a patch cord already connected to a date [data] port, the probe may be inserted into the data port..." Since the probe can be used as the information module in the revision system and the probe has the same functionality of the information module, it would be obvious to have a probe for the portable information module.

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4. As per claim 13 of the presented application, 09991836, claim 25 of the copending application discloses; connecting said system port connector to one of said plurality of local system ports; and observing said indicator to obtain information regarding the status of said revision system.

Although claim 25 of the copending application does not explicitly state a probe having a system port connector, a port plate connector, and an indicator, it would have been obvious to one of ordinary skill in the art to have this limitation because the disclosure of the copending application discloses on page 5, paragraph 0037, "The probe is preferably easy for the revisor to carry around with him, and each rack in the network preferably has a system outlet for plugging in the probe. Thus, the probe may have similar function for the information module except that, rather than receiving a patch cord already connected to a date [data] port, the probe may be inserted into the data port..." Since the probe can be used as the information module in the revision system and the probe has the same functionality of the information module, it would be obvious to have a probe for the portable information module.

Although claim 25 of the copending application does not explicitly state connecting said data port connector to one of said port plates in said system, it would have been obvious to one of ordinary skill in the art to have this limitation because the disclosure of the copending application discloses on pages 5-6, paragraph 0038, "Use of the probe in the present invention is contemplated to be associated with conductive contact elements, such as port plates associated with and adjacent to each of the data ports in the LAN. Each such port plate is

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independently connected to the system... Unlike most other cords, however, the specialized cords contemplated to be in accordance with the invention include plug extensions extending transversely from the plugs and configured to cooperatively mechanically and electrically engage the port plates associated with and adjacent to the respective ports into which the plug is inserted." The port plates are the connection through which the information is gathered for the port and the data port connector has a connection for electrically engaging the port plates.

### ***Claim Objections***

5. Claim 3 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

7. Claims 1,2,4-6,8-13 are rejected under 35 U.S.C. 102(e) as being anticipated by Solomon et al. (WO 00/60475). As appears in claim 1, Solomon et al. discloses a computer processor; a scanner in communication with said computer processor, said scanner capable of polling at least some of said port plates for determining information therefrom; a plurality of local system ports



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disposed at distinct physical locations within said system, said local system ports in communication with said computer processor on page 9, lines 15-25. The scanner is the output driver associated with each socket.

Solomon et al. discloses a plurality of port plates corresponding to and disposed proximately to at least a plurality of said data ports and a probe for connecting to respective ones of said plurality of local system ports and respective ones of said plurality of port plates, whereby when said probe is connected to one of said local system ports and one of said port plates, said probe may thereby display information about a corresponding one of said data ports in said system on page 13, lines 19-27. The port plate is the socket contact 15. The contact pin is the probe.

8. As per claim 2, Solomon et al. discloses wherein said plurality of data ports are distributed over and disposed upon a plurality of network racks and each of said racks includes at least one local system port disposed proximately thereto on page 8, lines 9-13.

9. As per claim 4, Solomon et al. discloses wherein said scanner periodically polls all of said data ports in said system on page 9, lines 15-25.

10. As per claim 5, Solomon et al. discloses a system port connector for enabling connection with respective ones of said local system ports; a port plate connector for enabling connection with respective ones of said port plates; and an indicator for conveying information to the user information regarding the status of the revision system on page 9, lines 4-5 and lines 15-25.

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11. As per claim 6, Solomon et al. discloses wherein said indicator includes a visual indicator on page 9, lines 4-5.

12. As per claim 8, Solomon et al. discloses wherein said visual indicator includes a liquid crystal display on page 9, lines 4-5.

13. As per claim 9, Solomon et al. discloses wherein said visual indicator includes a color display screen on page 9, lines 4-5.

14. As per claim 10, Solomon et al. discloses wherein one of said data ports includes a patch cord plug inserted therein, said patch cord plug including a plug extension for contacting said corresponding port plate when said patch cord plug is inserted in said data port on page 7, lines 19-23.

15. As per claim 11, Solomon et al. discloses wherein said patch cord plug includes a plug plate thereon, said plug plate being connectable to said probe on page 7, lines 19-23.

16. As per claim 12, Solomon et al. discloses wherein said probe includes a specialized connector for contacting said plug plate on page 7, lines 19-23.

17. As per claim 13, Solomon et al. discloses providing a probe having a system port connector, a port plate connector, and an indicator; connecting said system port connector to one of said plurality of local system ports; connecting said data port connector to one of said port plates in said system; and observing said indicator to obtain information regarding the status of said revision system on page 9, lines 4-5 and lines 15-25.

***Claim Rejections - 35 USC § 103***

18. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

19. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Solomon et al. in view of Fincher et al. (USPN 5847557). As per claim 7, Solomon et al. fails to explicitly state wherein said visual indicator includes a light-emitting diode.

Fincher et al. discloses this limitation in the abstract, "An apparatus and method of identifying wires or circuits uses plugs with light-emitting diodes ('LED's') attached across the plug contacts corresponding to the wiring circuit."

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have said visual indicator includes a light-emitting diode. A person of ordinary skill in the art would have been motivated to have said visual indicator includes a light-emitting diode because an LED allows a user to clearly notice information needed by the user.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yolanda Wilson whose telephone number is (703) 305-3298. The examiner can normally be reached on M-F (7:30-4:00). I can be reached at a new number, (571) 272-3653, after October 15, 2004.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Beausoliel can be reached on (703) 305-9713.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
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